

REMARKS

Reconsideration of pending claims 41-45 is respectfully requested.

Applicant has amended claims 4, 42, and 45; withdrawn claims 46-55; and added new dependent claims 56-58.

In addition, Applicant is providing a supplemental Information Disclosure Statement in accordance with 37 C.F.R. § 1.97 (c)(2).

The claim rejections under 35 U.S.C. §112

Claim 41 was rejected under 35 U.S.C. § 112 for failing to particularly point out and distinctly claim the subject matter of the invention.

The Office Action states that claim 41 has an improper form. Applicant respectfully disagrees. MPEP § 2181.I provides a 3-prong analysis of a means plus function claim limitation, the first two of which are applicable with regard to this rejection:

- (A) the claim limitations must use the phrase “means for” or “step for;”
- (B) the “means for” or “step for” must be modified by functional language . . .

Claim 41 complies with both prongs (A) and (B). Claim 41 includes the phrase “means for”, and this phrase is modified by the functional language “stopping a product.”

With regard to the second citation of this element within claim 41, claim 41 includes “said stopping means being proximate to said second section.” It is the experience of the undersigned that the phrase “said stopping means” is a generally accepted short-hand reference to “means for stopping a product.”

With regards to Ex Parte Klumb 159 USPQ 694 (BPAI 1967), the Board made the following statement on page 695:

Thus, expressions, such as “means for printing” or “printing means”, would have the same connotations and both would be in conformity with the statute.

Based on the analysis and examples presented in Klumb, claim 41 is in compliance therewith, and withdrawal of the rejection of claim 41 is respectfully requested.

The claim rejections under 35 U.S.C. § 102

Claims 41-43 and 45 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,992,182 to Frank.

It is well accepted that a reference anticipates a claim if the reference includes each and every element of the claim. Applicant respectfully disagrees that the Frank patent anticipates any of the pending claims.

Claim 41 includes a first section of roller shafts each driving a plurality of slippable rollers. In contrast, the rollers of Frank are not slippable. Conveyor 10 of Frank includes rolls 24, 25 and 27 (col. 4, lines 3-10). The first series of rolls run continuously at a first conveyor speed; the second series of rolls are driven at a second speed greater than the first speed; rolls 27 are selectively coupled to either of two motors (col. 4, lines 19-31). Frank discloses rollers that are positively driven at particular speeds. No where does Frank disclose rollers that are slippable on their roller shafts.

Applicant is unable to find any reference within Frank to slippable rollers. Applicant respectfully requests citation of such a reference within Frank. Alternatively, if there is no

such reference, Applicant respectfully withdrawal of the rejection of claim 41 and all claims dependent thereon.

The rejections under 35 U.S.C. § 103

Claim 44 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Frank in view of U.S. Patent No. 3,894,627 to Jabbusch.

It is well accepted that a *prima facie* case of obviousness must include reference to all elements in the claim. Claim 44 depends upon claim 41, and therefore includes slippable rollers. As discussed above, the Frank reference does not include any reference to slippable rollers. Therefore, the combination of Frank and Jabbusch do not include all elements of claim 44, and withdrawal of the rejection is respectfully requested.

Applicant respectfully disagrees that Frank and Jabbusch can be combined as stated in the Office Action. Frank discloses a conveyor 10 that includes an unloading station 22 (col. 3, line 64 - col. 4, line 2; also Figure 1). Frank's conveyor 10 also includes a furnace 14. It is not clear that a reader of Frank would be led to modify Frank to include a wrapping section. Instead of wrapping, Frank discloses an unloading station, which is likely required for extended cooling of the product after exposure to high temperatures in the furnace.

New claims.

Applicant has added new dependent claims 56-58. In accordance with MPEP § 821.04(a), Applicant respectfully requests introduction and examination of these claims, since these claims depend from or otherwise require the limitations of allowable claim 41.

CLOSING

Applicant has amended claims 41 and 42; withdrawn claims 46-55; and added new claims 56-58. Applicant respectfully requests reconsideration of pending claims 41-45, and 56-58.

It should be understood that the above remarks are not intended to provide an exhaustive basis for patentability or concede any basis for rejections or objections in the Office Action. Further, with regards to the various statements made in the Office Action concerning any prior art, the teachings of any prior art are to be interpreted under the law. Applicants make no admissions as to any prior art. The remarks herein are provided simply to overcome the rejections and objections made in the Office Action in an expedient fashion.

The undersigned welcomes a telephonic interview with the Examiner, if the Examiner believes that such an interview would facilitate examination of this application.

Respectfully submitted,

By /John V. Daniluck/
John V. Daniluck, Reg. No. 40,581
Bingham McHale, LLP
10 West Market Street, Suite 2700
Indianapolis, Indiana 46204
(317) 635-8900 telephone
(317) 236-9907 facsimile